IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Appeal No.98 of 1998
from
Notice of Motion No.2631 of 1993
In
Suit No.4011 of 1993

M/s.Sanjay Land Development Corporation. .. Appellant (Org.Defnt.No.1)

Vs.

Bachubhai Jayantilal Parekh (HUF) through its Karta & Manager Bachubhai Jayantilal Parekh & Ors. .. Respondents (Nos.1&2-Org.Plffs & 3 to 8- Org. Defendts 2 to 7.)

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Shri M.U.Pandey for the appellant.

None for the respondents.

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CORAM : R.M.S.KHANDEPARKAR &
DR.D.Y.CHANDRACHUD, JJ

DATED : 8TH JANUARY, 2007

P.C.

1. Shri Pandey, the learned advocate, is present for the appellant. None for the respondents.

2. This appeal arises from the order dated 27th August, 1997 passed by the learned Single Judge in Notice of Motion 2631 of 1993 in Suit No.4011 of 1993. By the impugned order, the appellant herein, who was the Defendant No.1 in Suit No.4011 of 1993, was restrained from carrying out the construction

activities in the suit property and from creating third party interest in the suit property, during the pendency of the hearing and final disposal of the said suit.

3. The learned advocate appearing for the appellant has placed on record a xerox copy of the order dated 12th August, 1998 passed in Suit No.4011 of 1993 whereby the suit itself has been dismissed for default. The learned advocate has further stated that after dismissal of the said suit, there has been no attempt for restoration thereof nor there is any order restoring the said suit. Obviously, in view of the dismissal of the suit, the order passed in Notice of Motion No.2631 of 1993 on 27th August, 1997 does not survive and consequently the appeal itself is rendered infructuous.

4. Accordingly, the appeal is disposed of with clarification that the impugned order stands set aside in view of the dismissal of the Suit No.4011 of 1993 itself wherein the said impugned order was passed on 27th August, 1997 during the pendency of the said suit.

5. Order accordingly with no order as to costs.

(DR.D.Y.CHANDRACHUD,J) (R.M.S.KHANDEPARKAR, J)